

April 13, 2004

Alvaro J. Piedrahita, P.E.  
Senior Vice President  
H.J. Ross  
201 Alhambra Circle  
Suite 900  
Coral Gables, Fl 33134

**RE: REQUEST FOR ADVISORY OPINION 04-68**

Dear Mr. Piedrahita:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on April 7, 2004 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding the team's ability to provide architectural and engineering services for Cargo Yard Improvements at the Port of Miami. The team members are H.J. Ross, Intercounty Labs, Rodolfo Ibarra and Nova Consulting.

In your request, you advised the Ethics Commission that the Seaport recently issued a Notice to Professional Consultants to provide architectural and engineering services for Cargo Yard Improvements at the Port of Miami. The scope of services will include but not be limited to the design and rehabilitation of cargo yard facilities, support infrastructure and ancillary services. The selected firm will also provide program monitoring services. Other projects may also be added to the scope of services.

The NTPC requires proposers to identify whether they or any of their sub-consultants,

or members have participated in any way in the development of previous Cargo Yard Improvements for the Seaport Department, including but not limited to, the scope of services identified for this project.

In a series of opinions, the Ethics Commission has opined that certain contractual arrangements create an inherent conflict of interest and should be determined prior to award. For example, a conflict exists if a contractor has overlapping responsibilities on different phases of the same project (i.e. AE on one phase of the project and serving as value engineer, CIS or CM partner on another phase of the project; supervisor or prime on one phase of the project and subcontractor on another or related phase or project). Further a conflict may exist if there are overlapping roles or responsibilities between two related contracts. These arrangements create conflict because they lead to disclosure of confidential information and impair independent judgment by the contractor in the performance of its contractual obligations.

In 2002 and 2003, H. J. Ross did value analysis on Cruise Terminals D and E and Gantry Crane Electrification.

Intercounty Labs conducted training for Port tenants and Rodolfo Ibarra did miscellaneous engineering work for some port tenants and site engineering work for the Crane Maintenance Facility. Nova Consulting did value analysis for the maintenance, replacement and addition of new pavement systems in the cargo areas at the port.

The Ethics Commission found that H.J. Ross and the other team members do not have a conflict of interest in regard to the Cargo Yard Improvement contract. The scope of the team members' prior work at the port does not overlap with the scope of the Cargo Yard Improvements contract.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call the undersigned at (305) 579-2594 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,

ROBERT MEYERS  
Executive Director

cc: Luisa Millan Donovan, CICC